

HONORABLE TANA LIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC., a Delaware corporation,
Plaintiff,
v.
KUNAL BANSAL, an individual, d/b/a
LAVICHEATS.COM,
Defendant.

Case No. 2:21-cv-1111-TL

DECLARATION OF STACIA N. LAY IN
SUPPORT OF PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT AGAINST
DEFENDANT KUNAL BANSAL

NOTE ON MOTION CALENDAR:
February 17, 2023

I, Stacia N. Lay, declare and state as follows:

1. I am an attorney at Focal PLLC and represent Plaintiff Bungie, Inc. in this action. I am over 18 years of age. This Declaration is based upon personal knowledge unless otherwise stated, in which case I believe the information to be true. If called as a witness, I could and would testify competently to the information contained herein.

Defendant Kunal Bansal, aka "Lavi," and Lavicheats for Destiny 2

2. At the outset of this case, Defendant Kunal Bansal, who is believed to use the alias "Lavi," promoted, sold, distributed, and otherwise trafficked in cheat software for Bungie's *Destiny 2* video game (the "Cheat Software"). Initially, the investigation indicated that he engaged in these activities primarily through a website he owned, operated, and/or administered located at <lavicheats.com> (the "Lavicheats Website").

3. Until sometime after this lawsuit was filed and Bansal was served with and

received notice of the Complaint in this action, Bansal offered for sale two versions of the Cheat Software for *Destiny 2* – the “Delta” cheat (also known as the x22 cheat) and the “Premium” cheat (also known as the Ring-1 cheat). Each version of Defendant’s Cheat Software for *Destiny 2* offered different price points depending on the length of the license for the software. For example, the “Destiny Delta” cheat sold for \$9.99 for a day license or \$129 for a month. The “Destiny Premium” or Ring-1 cheat was offered at a number of price points: “Destiny 2 – 1Day” for \$19.90; “Destiny 2 – 1Week” for \$54; “Destiny 2 – 1Month” for \$139; “Destiny 2 Pro-Week” for \$129; and “Destiny 2 Pro-Month” for \$249. Attached hereto as **Exhibit 1** are true and correct screenshots that I captured from the “store” page of the Lavicheats Website on August 6, 2021, showing the two versions of Defendant’s Cheat Software for *Destiny 2* and their price points.

4. The two versions of the Cheat Software for *Destiny 2* offered by Bansal – which he promoted as the “Best Undetected Destiny 2 hacks and cheats” – offered some features in common but the “Premium” or Ring-1 cheat (the “Ring-1 Cheat”) provided the largest variety of features aimed at giving users an unfair advantage in *Destiny 2*. Attached hereto as **Exhibit 2** are true and correct screenshots that I captured from the Lavicheats Website on August 17, 2021, showing posts by “Lavi” (Bansal) promoting the features offered by his Cheat Software for *Destiny 2*.

5. In promoting his Cheat Software for *Destiny 2*, Bansal also used trademarks for the *Destiny* franchise owned by Bungie, as well as copyrighted imagery from *Destiny 2*. Examples of this unauthorized use of Bungie’s intellectual property can be seen in Exhibits 1 and 2 described above and attached hereto. Additionally, attached hereto as **Exhibit 3** is a true and correct screenshot that I captured from the Lavicheats Website on August 6, 2021, in which Bansal promoted the Cheat Software for *Destiny 2*. The video on the page, which includes “Lavicheats” branding, also displays Bungie’s copyrighted *Destiny 2* game as modified by the Cheat Software.

6. At the time the Complaint in this action was filed, Bansal offered for sale cheats

1 or hacks for more than 20 games. Attached hereto as **Exhibit 4** is a true and correct screenshot
2 that I captured of the “store” page of the Lavicheats Website on August 6, 2021, showing the
3 games for which Bansal sold cheats or hacks, including Bungie’s *Destiny 2*. The Lavicheats
4 Website continues to promote and offer for sale cheats or hacks for a number of other video
5 game franchises; in fact, Bansal appears to have expanded his inventory of cheats since he
6 purportedly stopped selling the Cheat Software for *Destiny 2*. Attached hereto as **Exhibit 5** is a
7 true and correct screenshot that I captured of the “store” page of the Lavicheats Website on
8 February 14, 2023, showing an expanded inventory of cheats for various game franchises.

9 7. Sometime after the Complaint in this action was filed and Bansal received notice
10 of this lawsuit, Bungie learned that Bansal had expanded and/or moved his operation of offering
11 for sale cheat software for *Destiny 2* to other websites, including but not limited to
12 <lavicheats.org>, <cobracheats.com>, and <protocolv.com>. A post appeared on Bansal’s
13 Lavicheats Website stating that he had “discontinued selling Destiny 2 [sic]” but recommended
14 that customers purchase cheat software for *Destiny 2* from the Cobracheats website and provided
15 a link for customers to follow. Attached hereto as **Exhibit 6** is a true and correct screenshot of
16 the post that I captured from the Lavicheats Website on November 22, 2021, showing the post
17 touting the cheat software from Cobracheats as having “all the cheats that you need for your
18 game, including Aimbot, wallhacks, and ESP.”

19 8. Other indicators linked Bansal to the Cobracheats website and its offering for sale
20 of cheat software for *Destiny 2*. For example, the Cobracheats websites used Lavicheats-branded
21 material such as videos also used on the Lavicheats Website; the download link for the cheats
22 purchased from the Cobracheats website is the same as the link for cheats purchased from the
23 Lavicheats Website; and Lavicheats and Cobracheats shared the same support staff on third-party
24 services such as Discord. Attached hereto as **Exhibit 7** is a true and correct screenshot that I
25 captured from the Cobracheats *Destiny 2* cheats page on June 8, 2022, showing the same
26 Lavicheats-branded video that was also used on the Lavicheats Website.

27 9. Similarly, with respect to the <lavicheats.org> website, it used the same “Lavi”

1 “L” logo used on the Lavicheats Website and an order for cheat software for *Destiny 2* from the
 2 website directed a purchaser to the Lavicheats Website to obtain download access to the
 3 purchased cheat. Attached hereto as **Exhibit 8** are true and correct copies of (a) a screenshot of
 4 the <lavicheats.org> website that I captured from the Internet Archive Wayback Machine on
 5 June 9, 2022, and (b) a screenshot of the checkout for a *Destiny 2* cheat software purchase from
 6 <lavicheats.org> captured in the course of Bungie’s investigation that includes a link to the
 7 Lavicheats Website for download access to the purchased cheat.

8 10. As to the <protocolv.com> website, it too revealed a number of connections to
 9 Bansal. First, the homepage includes content identical to that of the <lavicheats.org> website,
 10 including the use of the same “Lavi” “L” logo that is also used on the Lavicheats Website.
 11 Second, the *Destiny 2* cheat software product pages again use the “Lavi” logo as well as
 12 “Lavicheats”-branded images for the cheats. Third, an attempted purchase of a *Destiny 2* cheat
 13 refers to “Lavigaming Services.” Attached hereto as **Exhibit 9** are true and correct copies of (a) a
 14 screenshot of the <protocolv.com> homepage that I captured on June 8, 2022, (b) a screenshot of
 15 a product page for *Destiny 2* cheat software that I captured from the <protocolv.com> website on
 16 June 8, 2022, and (c) a screenshot of an attempted purchase of a *Destiny 2* cheat from the
 17 <protocolv.com> website that was captured in the course of Bungie’s investigation that refers to
 18 “Lavigaming Services.”

Attorneys’ Fees and Costs

19 11. As of February 17, 2023, Bungie has incurred a total of \$183,850.71 in attorneys’
 20 fees in connection with its prosecution of this lawsuit. This amount includes \$146,460 billed by
 21 Bungie’s lead counsel in this action, Focal PLLC, as well as \$37,390.71 billed by Bungie’s
 22 counsel in the United Kingdom, Osborne Clarke LLP. The fees (and costs) requested for
 23 Bungie’s UK counsel’s invoices were converted to USD using historical exchange rates as of the
 24 date each invoice was issued. The historical exchange rates that were used to make the
 25 conversions can be found at the following links: [https://www.exchangerates.org.uk/GBP-USD-](https://www.exchangerates.org.uk/GBP-USD-spot-exchange-rates-history-2022.html)
 26 [spot-exchange-rates-history-2022.html](https://www.exchangerates.org.uk/GBP-USD-spot-exchange-rates-history-2022.html) and [https://www.exchangerates.org.uk/GBP-USD-spot-](https://www.exchangerates.org.uk/GBP-USD-spot-exchange-rates-history-2022.html)
 27 [spot-exchange-rates-history-2022.html](https://www.exchangerates.org.uk/GBP-USD-spot-exchange-rates-history-2022.html)

1 [exchange-rates-history-2023.html](#) (last visited February 17, 2023). These amounts were incurred
2 from the preparation and filing of the Complaint in this action through February 17, 2023,
3 shortly before the present Motion for Default Judgment was filed.

4 12. Additionally, Bungie seeks to recover a total of \$57,852.63 in costs, which
5 includes (a) costs identified on the invoices of Bungie's counsel attached hereto as Exhibit 10
6 and Exhibit 12 (\$2,720.75 for Focal and \$125.88 for Osborne Clarke), and (b) expert fees of
7 \$55,006 (*see* Declaration of Steven Guris in Support of Plaintiff's Motion for Default Judgment
8 ¶ 59).

9 13. True and correct copies of the invoices of Focal PLLC issued to Bungie in
10 connection with this proceeding – with redactions consisting only of privileged content or fees or
11 costs that Bungie does not seek to recover – are attached hereto as **Exhibit 10**. Focal records our
12 time on an electronic timekeeping system and I and/or Venkat Balasubramani, Bungie's other
13 principal attorney in this case, review each pre-bill to adjust for inefficiencies or other matters as
14 appropriate.

15 14. The attorney timekeepers whose time is reflected on our invoices include me,
16 Venkat Balasubramani, Ashley McDonald, and Kim Gunning. The paralegal timekeepers whose
17 time is reflected on our invoices include Rehan Harrach, Ann Iarossi, and Sasannah Dolan-
18 Williams. The relevant experience of the professionals who worked on this matter is summarized
19 in their firm bios, true and correct copies of which are attached hereto as **Exhibit 11**. The firm
20 bios of Kim Gunning and Sasannah Dolan-Williams have been captured from the Internet
21 Archive Wayback Machine as they are no longer with Focal PLLC. Rehan Harrach only recently
22 joined Focal and therefore does not yet have a firm bio.

23 15. As one of Bungie's principal attorneys in this case, I am familiar with Focal's
24 work on this matter. I have also reviewed the invoices attached as Exhibit 10 in light of the
25 services provided and the issues addressed and believe the amounts set forth therein to be fair,
26 just and reasonable for the services described, given the complexity of the issues presented by
27 the Complaint in this action.

16. My billing rate for this matter is \$425 per hour. However, I also billed at Focal's standard paralegal rate – \$175 per hour – in certain instances reflected in the invoices. I was admitted to the Washington State Bar in 2000 and have been in private practice since 2002 with a focus on commercial and IP litigation. After practicing for more than a decade at a boutique IP firm in Seattle, I joined Focal in 2015 and am currently a member. Venkat Balasubramani's billing rate for this matter is \$500 per hour. Mr. Balasubramani was admitted to the Washington State Bar in 1998. He clerked in the Western District of Washington in 1997 and started his career at Perkins Coie. Mr. Balasubramani co-founded Focal in 2009. Over the course of his career, he has handled a wide range of IP litigation matters. Ashley McDonald's billing rate for this matter is \$425 per hour. Ms. McDonald was admitted to the Washington State Bar in 2021 and the Oregon State Bar in 2015. Ms. McDonald has been in private practice since 2015 with a focus on complex commercial litigation. In 2022, she joined Focal, where her practice focuses on complex commercial and IP litigation. Kim Gunning's billing rate for this matter was \$425 per hour. Ms. Gunning was admitted to the Washington State Bar in 2004. Ms. Gunning has extensive experience with a wide range of litigation matters and was formerly an Assistant Attorney General in the Consumer Protection Division at the Washington State Attorney General's Office. The paralegals who worked on this matter – Rehan Harrach, Sasannah Dolan-Williams and Ann Iarossi – billed at Focal's standard paralegal rate of \$175 per hour. Ms. Harrach has more than 10 years' experience as a paralegal supporting attorneys in busy civil litigation practices. Ms. Dolan-Williams, who has an AA Degree in Paralegal Studies, is a paralegal with more than 10 years' experience assisting attorneys with all aspects of litigation. Ms. Iarossi is a litigation paralegal with more than 20 years' experience who has supported litigators in a wide range of cases. The hourly rates for services charged to Bungie by Focal are reasonable and comparable to – or below – the rates charged in the Seattle area for attorneys and paralegals of comparable skill and experience in connection with similar complex litigation, including litigation involving intellectual property issues.

17. In addition, Bungie incurred the fees and costs of counsel in the United Kingdom

1 in connection with this action. Due to Bansal's decision not to participate in this lawsuit, which
2 deprived Bungie of the ability to obtain discovery from Bansal, it was necessary for Bungie to
3 seek discovery from third-party service providers such as payment processors that Bansal used in
4 connection with the unlawful activities described in the Complaint. One such service provider
5 was PayDash Limited, a UK company that Bansal was believed to have used to process
6 payments for his sale of the Cheat Software via the Lavicheats Website. Although Bungie sought
7 PayDash's informal cooperation with the production of documents related to Bansal's use of its
8 payment processing services, those efforts were unsuccessful. Therefore, Bungie was required to
9 seek a Letter of Request via the Hague Evidence Convention in order to obtain information from
10 PayDash regarding Bansal's use of its payment processing services, which the Court granted on
11 August 3, 2022. (*See* Dkts. 34-35, 37.) This necessitated the assistance of UK counsel in drafting
12 the Letter of Request, obtaining approval of the Letter of Request from the UK central authority,
13 serving the Letter of Request on PayDash, and engaging in follow up communications with
14 PayDash (and then its liquidators) in efforts to secure the requested discovery. Thus, the fees and
15 costs of UK counsel were necessarily incurred in connection with this proceeding.

16 18. True and correct copies of the invoices of UK counsel – Osborne Clarke
17 LLP – issued to Bungie in connection with this proceeding, with redactions for privileged
18 content, are attached hereto as **Exhibit 12**.

19 19. The attorney timekeepers whose time is reflected on the Osborne Clarke invoices
20 attached in Exhibit 12 include Charles Wedin, Jamie Halpin, Will Gunston, Jonty Langham,
21 Capucine de Hennin, and Aisling Farley (identified in the invoices as "Trainee 8 Team 107"),
22 each of whom had varying degrees of involvement in assisting with the Letter of Request to
23 PayDash depending on their expertise and/or availability. The relevant experience of the
24 Osborne Clarke professionals who worked on this matter is summarized in their firm resumes,
25 true and correct copies of which are attached hereto as **Exhibit 13**.

26 20. Charles Wedin's billing rate for this matter was £685 (approximately \$833) per
27 hour at the start of this matter and £720 (currently, approximately \$876) per hour from August

1 2022 to the present. Jamie Halpin's billing rate for this matter was £485 (currently,
2 approximately \$590) per hour at the start of this matter and £510 (currently, approximately \$620)
3 per hour from August 2022 to the present. Will Gunston's billing rate for this matter was £720
4 (currently, approximately \$876) per hour. Jonty Langham's billing rate for this matter was £510
5 (currently, approximately \$620) per hour. Capucine de Hennin's billing rate for this matter was
6 £430 (currently, approximately \$523) per hour. And Aisling Farley's billing rate for this matter
7 was £200 (currently, approximately \$243) per hour. Based on my exchanges with UK counsel
8 for Bungie, Charles Wedin, Mr. Wedin confirmed that the hourly rates for services charged to
9 Bungie by Osborne Clarke are reasonable and comparable to the rates charged in England for
10 attorneys of comparable skill and experience in connection with similar complex litigation,
11 including litigation involving intellectual property issues.

12 I declare under penalty of perjury under the laws of the United States that the foregoing is
13 true and correct to the best of my knowledge.

14 Executed this 17th day of February, 2023, at Seattle, Washington.

15
16 s/ Stacia N. Lay
STACIA N. LAY